

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF HORIZON CELLULAR TELEPHONE COMPANY)	
OF CENTRAL KENTUCKY, L.P., A DELAWARE LIMITED)	
PARTNERSHIP FOR ISSUANCE OF A CERTIFICATE OF)	
PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AN)	CASE NO.
ADDITIONAL CELL FACILITY IN THE KENTUCKY RURAL)	95-394
SERVICE AREA NO. 6 WHICH INCLUDES MADISON,)	
GARRARD, BOYLE, CASEY, LINCOLN, ROCKCASTLE,)	
PULASKI, AND LAUREL COUNTIES IN KENTUCKY)	
(THE DANVILLE CELL FACILITY))	

O R D E R

On September 11, 1995, Horizon Cellular Telephone Company of Central Kentucky, L.P. ("Horizon Cellular") filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 6 ("RSA No. 6"). RSA No. 6 includes Boyle, Casey, Garrard, Laurel, Lincoln, Madison, Pulaski, and Rockcastle counties. Horizon Cellular has requested authorization to construct a cell site in Boyle County. Horizon Cellular was previously granted authority to operate a cellular radio telecommunications system in RSA No. 6 in Case No. 93-048.¹

¹ Case No. 93-048, The Joint Application of Danbury Cellular Telephone Co., a Connecticut Corporation d/b/a Cellular One/United Bluegrass Cellular Corp., and Horizon Cellular Telephone Company of Central Kentucky, L.P., a Delaware Limited Partnership, for Approval of the Transfer of the Assets and Liabilities of Danbury Cellular Telephone Co. to Horizon Cellular Telephone Company of Central Kentucky, L.P., and Related Financing.

The proposed cell site consists of a 180-foot or less guyed antenna tower to be located at Persimmon Knob Road, Junction City, Boyle County, Kentucky ("the Danville cell site"). The coordinates for the Danville cell site are North Latitude 37° 35' 26" by West Longitude 84° 50' 43".

Horizon Cellular has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the Danville cell site. Based upon the application, the design of the tower and foundation appears to meet the criteria of the Building Officials and Code Administrators International National Building Code with reference to earthquakes, winds, and tornadoes.

Pursuant to KRS 100.324(1), the Danville cell site's construction is exempt from local zoning ordinances; however, Horizon Cellular notified the Danville-Boyle County Planning Commission of the pending construction. Federal Aviation Administration notification is not required for the Danville cell site, and an application has been filed with the Kentucky Airport Zoning Commission ("KAZC"), which is pending.

Horizon Cellular has filed notices verifying that each person who owns property or who resides within 500 feet of the Danville cell site has been notified of the pending construction. The notice solicited any comments and informed the property owners or residents of their right to intervene. In addition, notice was posted in a visible location on the proposed site for at least two weeks after Horizon Cellular's application was filed. On September

26, 1995, the Commission received a letter from Danville-Boyle County Planning Commission ("DBCPC"), enclosing an application for a conditional use permit, and claiming that approval by DBCPC of any such application was necessary before construction of the "proposed equipment shelter begins." On October 9, 1995, the Commission notified DBCPC that its September 26, 1995 letter was being treated as an official protest and that DBCPC must file a letter requesting intervention within ten days of Horizon Cellular's response to DBCPC. On October 17, 1995, DBCPC acknowledged in its letter to Horizon Cellular that DBCPC has no jurisdiction over the proposed facility. No intervention requests have been received.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Horizon Cellular should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Horizon Cellular.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Horizon Cellular should be granted a Certificate of Public Convenience and Necessity

to construct and operate the Danville cell site in RSA No. 6 under its previously approved tariff.

IT IS THEREFORE ORDERED that:

1. Horizon Cellular be and it hereby is granted a Certificate of Public Convenience and Necessity to construct and operate the Danville cell site.

2. Horizon Cellular shall file a copy of the final decision regarding the pending KAZC application for this cell site construction within 10 days of receiving this decision.


3. Horizon Cellular shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 6th day of November, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director